

Neogen 4.1-32
Appl. No. 09/887,703
Amdt. dated September 2, 2005
Reply to Office communication of July 14, 2005

REMARKS

Claims 1-3, 6, 7, 10 and 12-14 are pending in the application. Claims 1-3, 6, 7, 10 and 12-14 have been rejected. No claims have been allowed. Claim 1 is currently amended.

Claim Rejections

(1.) Claims 1-3, 6, 7, 10 and 12-14 have been rejected were rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement.

The term "moveable open base with an integral member" has been amended to "member on a base" in the claims. The terms "member" and "base" are supported in the specification. As described in the specification, intermediate to the proximal end and the distal end of the chamber 40 in the analysis structure 30 is a base 54 (see Figures 4 and 5) with a (piercing) member 53 of the analysis structure 30 against which the sampling swab 27 advances so as to collect the sample within a cavity 45

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in a reaction well 36 at a distal end of the analysis structure 30. As seen in Figure 9, when the sampling wand 17 is fully inserted, the sample can pass from the sampling swab 27 past the base and collect in the reactant disc 48 in the reaction well 36. Specific support for a base 54 of the analysis structure 30 against which the sampling swab advances is found in paragraphs 0054 and 0056 and illustrated in Figures 4, 5 and 9. The base 54 is at a distal end of a piercing member 53 which is described in paragraphs 0054, 0056 and 0063 in the specification. Therefore, this subject matter was described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Reconsideration of the rejection is requested.

(2.) Claims 1-3, 6, 7, 10 and 12-14 have been rejected were rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Reconsideration of the rejection is requested.

The term "moveable open base with an integral member" has been amended in the claims to "member on a base" in the claims to clarify the claimed subject matter. Additionally, the claims have been amended to clarify that the sample passes past the base to collect within a cavity at a distal end of the analysis structure. Specifically, Claim 1 has been amended to such that the chamber has a member on a base which member projects towards the swab provided intermediate to the proximal and distal end of the analysis structure against which the sampling swab advances to remove the sample from the swab such that the sample passes past the base and collects within a cavity at a distal end of the analysis structure in a reaction well having a reagent disc.

As illustrated in Figures 8 and 9, as the sampling wand 17 is inserted the sampling swab 27

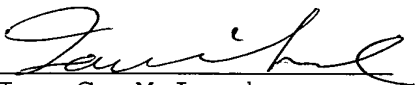
Neogen 4.1-32
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advances against the base 54 to remove the sample from the sampling swab 27. The sample then passes the base 54 (Figure 9) and collects within the reagent disc cavity 45 holding the reagent disc 48. The sample collects in the reagent disc 48 due to the forward advancement of the sampling wand 17. Therefore, the amended claims particularly point out and distinctly claim the subject matter which applicant regards as the invention. Reconsideration of the rejection is requested.

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The above amendments were discussed in a telephone conversation between the Examiner and my associate Steven Merritt (Registration No. 52,026) on September 1, 2005. The Examiner indicated that the amendments overcome the 35 U.S.C. §112 rejections. In light of the above amendments, it is now believed that Claims 1-3, 6, 7, 10 and 12-14 are patentable and in condition suitable for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully,


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